

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2019 MAY 17 PM 11:59

CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

SHANIQUEA BROWN, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,
PLAINTIFF,

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V.

CAUSE NO. 1:19-CV-372-LY

LOGISTICARE SOLUTIONS, LLC,
DEFENDANT.

ORDER

Before the court in the above-styled and numbered cause are Defendant's Partial Motion to Dismiss filed April 23, 2019 (Dkt. No. 9), Plaintiffs' Response to Defendant's Partial Motion to Dismiss filed May 7, 2019 (Dkt. No. 12), and Defendant's Reply to Plaintiffs' Response to its Partial Motion to Dismiss filed May 10, 2019 (Dkt. No. 13).

By its motion, Defendant Logisiticare Solutions seeks to dismiss the claims of named class plaintiff, Tiffany Adams. Adams is a South Carolina resident and seeks to represent a class of claimants for violations of the Fair Labor Standards Act and the South Carolina Payments of Wages Act. Logisticare asserts that Adams's claims are barred by the statute of limitations and should be dismissed. Adams agrees that her claims are barred by the statute of limitations and cannot be cured by amending the complaint.

IT IS THEREFORE ORDERED that Defendant's Partial Motion to Dismiss filed April 23, 2019 (Dkt. No. 9) is **GRANTED** as follows: Plaintiff Tiffany Adams's claims against Logisticare are **DISMISSED**.

Rule 23(a)(3) of the Federal Rules of Civil Procedure states that a class representative's claims must be typical of the class as a whole. Fed. R. Civ. P. 23(a)(3). The other class

representative, Shaniqua Brown, is a Texas resident. Brown cannot represent potential class members who are asserting claims under South Carolina law because her claims are not typical of the class as a whole. The dismissal of Tiffany Adams's claims against Logisticare leaves the potential class of South Carolina residents without a class representative. Until such time as a new South Carolina class representative is appointed,

IT IS FURTHER ORDERED that Plaintiffs' claims arising under the South Carolina Payments of Wages Act are **DISMISSED** without prejudice to refiling.

IT IS FURTHER ORDERED that the style in the case remaining before the court be modified as noted in the style utilized in this order, and the clerk and the parties in this case shall use the above-referenced style for all future pleadings in this case.

SIGNED this 17th day of May, 2019.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE